IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 7TH AUGUST 2006 / 16TH SRAVANA 1928

Bail Appl..No. 4775 of 2006

CRIME NO.40/2006 OF COCHI CITY HARBOUR POLICE STATION

PETITIONER:

J.P. JAIPRAKAS, S/O. PARAMESWARAN,
`PARVATHY', MAHESH NAGAR,
NEAR N.S.S. COLLEGE, THRIPUNITHURA.

BY ADV. SRI.C.RAGHAVAN

RESPONDENTS:

S.I. OF POLICE, HARBOUR POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR K. RAVIKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4775/2006

DATED THIS THE 7TH DAY OF AUGUST, 2006

O R D E R

The petitioner is before this Court, under Section 438 Cr.P.C., in crime No.40/2006 of Cochi City Horbour Police Station, for the offence alleged against him, under Section 3(1)(ix) of the Scheduled Caste and Scheduled Tribe (Prevention of Attrocities) Act, 1989, in short 'the Act'.

2. When the application came up for consideration, the learned counsel for the petitioner fairly conceded that the application under Section 438 Cr.P.C, will not lie because of the operation under Section 18 of the Act. However, the learned counsel brought to my notice, Shanu v. State of Kerala (2000 (3) KLT 452), that the application filed for bail before the Magistrate Court need not be dismissed on the ground that the case is exclusively triable by the Court of Sessions.

3. In view of the above discussions, I direct the

petitioner to surrender before the Judicial Magistrate of First Class-I, Ernakulam, on 11.8.2006 at 11.00 a.m., and move an application for bail, after serving copy of the same well in advance to the APP of that Court. The learned Magistrate shall consider the principle contained in Shanu's case cited above, and dispose of the application according to the law, on the same day itself, on merit.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs